

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC, and Bernard L. Madoff,

Plaintiff,

v.

CRÉDIT AGRICOLE CORPORATE AND
INVESTMENT BANK d/b/a CRÉDIT
AGRICOLE PRIVATE BANKING MIAMI,
f/k/a CALYON S.A. d/b/a CRÉDIT
AGRICOLE MIAMI PRIVATE BANK
SUCCESSOR IN INTEREST TO CRÉDIT
LYONNAIS S.A.,

Defendant.

Adv. Pro. No. 12-01670 (CGM)

**DECLARATION OF ELIZABETH VICENS
IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS THE COMPLAINT**

I, ELIZABETH VICENS, hereby declare under penalty of perjury as follows:

1. I am a member of the bar of this Court and a partner in Cleary, Gottlieb, Steen & Hamilton LLP, attorneys for Crédit Agricole Corporate and Investment Bank d/b/a Crédit Agricole Private Banking Miami, f/k/a Calyon S.A. d/b/a Crédit Agricole Miami Private Bank successor in interest to Credit Lyonnais S.A. (“Crédit Agricole Miami” or “Defendant”). I respectfully submit this Declaration in support of Defendant’s motion to dismiss the Complaint (the “Complaint”) filed by plaintiff Irving H. Picard, Trustee (the “Trustee” or “Plaintiff”) for the Liquidation of Bernard L. Madoff Investment Securities LLC in this adversary proceeding.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Complaint filed in the above-captioned Adversary Proceeding, with exhibits thereto.

3. Attached hereto as Exhibit 2 is a true and correct copy of the Trustee’s Twenty-Sixth Interim Report for the Period April 1, 2021 through September 30, 2021, in the matter captioned *In re Bernard L. Madoff Inv. Secs. LLC*, Adv. Pro. No. 08-01789 (Bankr. S.D.N.Y.), ECF No. 20821, without exhibits.

4. Attached hereto as Exhibit 3 is a true and correct copy of Exhibit A to the Settlement Agreement dated as of May 9, 2011 between the Trustee and Kenneth Krys and Joanna Lau, as Joint Liquidators of Fairfield Sentry Limited (“Sentry”), Fairfield Sigma Limited, and Fairfield Lambda Limited, filed in the matter captioned *Picard v. Fairfield Sentry Ltd., et al.*, Adv. Pro. 09-01239 (Bankr. S.D.N.Y.) (the “Fairfield Trustee Action”), ECF No. 69-2, with exhibits thereto.

5. Attached hereto as Exhibit 4 is a true and correct copy of Exhibit G to the Settlement Agreement dated as of May 9, 2011 between the Trustee and Kenneth Krys and

Joanna Lau, as Joint Liquidators of Fairfield Sentry Limited (“Sentry”), Fairfield Sigma Limited, and Fairfield Lambda Limited, filed in the Fairfield Trustee Action, ECF No. 69-9.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Judgement entered on April 16, 2014, in the matter captioned *Fairfield Sentry Ltd. (In Liquidation) v. Migani*, [2014] UKPC 9 (“*Migani*”).

7. Attached hereto as Exhibit 6 is a true and correct copy of the Third Amended Complaint filed by the Trustee in the matter captioned *Fairfield Sentry Ltd. (In Liquidation), et al. v. Brown Brothers Harriman, et al.*, Adv. Pro. No. 10-3752 (Bankr. S.D.N.Y. Aug. 21, 2019), ECF No. 135, without exhibits.

8. Attached hereto as Exhibit 7 are true and correct copies of Exhibit 5 and 6 to the Second Amended Complaint filed in the Fairfield Trustee Action, ECF Nos. 286-5, 286-6.

9. Attached hereto as Exhibit 8 are true and correct copies of Exhibits 8, 10, 12, 13, 14, and 21 to the Second Amended Complaint filed in the Fairfield Trustee Action, ECF Nos. 286-8, 286-10, 286-12, 286-13, 286-14, 286-21.

10. Attached hereto as Exhibit 9 is a true and correct copy of the First Amended Complaint filed by the Plaintiffs in the matter captioned *Fairfield Sentry Ltd. v. Citco Global Custody NV*, Adv. Pro. 19-01122 (Bankr. S.D.N.Y.), ECF No. 19.

11. Attached hereto as Exhibit 10 is a true and correct copy of the Consent Judgement entered on July 13, 2011, in the Fairfield Trustee Action, ECF No. 109.

12. Attached hereto as Exhibit 11 is a true and correct copy of Sentry’s Articles of Association.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Plaintiffs-Appellants’ Opening Brief for Second-Round Appeal (“Liquidators’ Appeal”) filed in the matter

captioned *Fairfield Sentry Limited (In Liquidation) v. Citibank NA London*, No. 19-cv-03911-VSB 24 (S.D.N.Y. July 21, 2021), ECF No. 440.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
is true and correct.

Executed on July 18, 2022
New York, New York

/s/ Elizabeth Vicens
Elizabeth Vicens